

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA : Criminal No. 99CR1170

v. : Violation: 15 U.S.C. § 1

ALAN DIAMOND, : Filed: November 18, 1999

Defendant. :

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INFORMATION

The United States of America, acting through its attorneys, charges:

1. Alan Diamond is hereby made a defendant on the charge stated below.

I. DEFENDANT AND CO-CONSPIRATORS

2. Diamond is a resident of Nutley, New Jersey. During the period covered by this Information, Diamond was a co-owner of LTA Group, Inc. ("LTA"), a broker of advertising and display materials, located in North Bergen, New Jersey.

3. During the period covered by this Information, Hiram Walker & Sons, Inc., ("Hiram Walker"), located in Southfield, Michigan, was a manufacturer, importer, and distributor of alcoholic beverages.

4. During the period covered by this Information, LTA made substantial sales of advertising and display materials to Hiram Walker.

5. Whenever in this Information reference is made to any act, deed, or transaction of any corporation, such allegation shall be deemed to mean that the corporation engaged in such act, deed, or transaction by or through its officers, directors, agents, employees, or other representatives while they were actively

engaged in the management, direction, control, or transaction of its business or affairs.

6. Various persons and firms, not made defendants herein, participated as co-conspirators in the offense charged herein and performed acts and made statements in furtherance thereof.

II. DEFINITION

7. “Advertising and display materials” refers to the manufacture, assembly, or packaging of any point-of-purchase advertising and display materials, including, but not limited to, display stands, posters, banners, counter cards or sell sheets, used for the advertising or promotion of consumer goods, primarily in retail stores.

III. DESCRIPTION OF THE OFFENSE

8. Beginning in approximately January 1992 and continuing until approximately February 1994, the exact dates being unknown to the United States, the defendant and co-conspirators engaged in a combination and conspiracy in unreasonable restraint of trade and commerce in violation of Section 1 of the Sherman Act (15 U.S.C. § 1).

9. The aforesaid combination and conspiracy consisted of a continuing agreement, understanding, and concert of action among the defendant and co-conspirators, the substantial term of which was to allocate contracts for the supply

of advertising and display materials awarded by Hiram Walker. One co-conspirator was Irwin Englander, a purchasing agent employed at Hiram Walker with responsibility for buying advertising display materials. Another co-conspirator was Peter Lanigan, who controlled two companies that were suppliers of advertising and display materials to Hiram Walker.

10. For the purpose of forming and effectuating the aforesaid combination and conspiracy, the defendant and co-conspirators did those things which they combined and conspired to do, including, among other things:

- (a) met with Englander at a hotel in Manhattan and agreed that Englander would receive money if he caused Hiram Walker to award contracts for advertising and display materials to LTA;

- (b) designated which supplier of advertising and display materials would be awarded particular contracts by Hiram Walker;

- (c) caused LTA to make payments in the form of checks totaling approximately \$79,000 to an entity controlled by co-conspirator Englander, for his assistance in allocating Hiram Walker's contracts for advertising and display materials among LTA and other co-conspirators who were also suppliers of advertising and display materials and ensuring that no potential competitors who were not co-conspirators would be invited to quote on such contracts;

- (d) caused LTA to make payments totaling approximately \$209,000 to one of Lanigan's companies with the understanding that the money would be

forwarded to Englander; and

(e) created false and misleading purchase orders and invoices for the purpose of disguising the true source and purpose of the payments to co-conspirator Englander and to Lanigan's company.

TRADE AND COMMERCE

11. Advertising and display materials are used by many manufacturers, among them cigarette, consumer health goods, food, liquor, and cosmetic companies, as a means of promoting their products.

12. During the period covered by this Information, Hiram Walker purchased substantial quantities of advertising and display materials from suppliers located throughout the United States.

13. During the period covered by this Information, and as a result of the conspiracy charged herein, the defendant obtained contracts for advertising and display materials from Hiram Walker worth approximately \$1.8 million.

14. During the period covered by this Information, the activities of the defendant and co-conspirators with respect to the sale of advertising and display materials to Hiram Walker pursuant to the charged conspiracy were within the flow of, and substantially affected, interstate trade and commerce.

JURISDICTION AND VENUE

15. The aforesaid combination and conspiracy was carried out, in part, within the Southern District of New York.

IN VIOLATION OF TITLE 15, UNITED STATES CODE, SECTION 1.

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"/s/"
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"/s/"
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